

**ASSEMBLY BILL**

**No. 906**

**Introduced by Assembly Members Nakano and Laird**

February 20, 2003

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An act to add Division 38 (commencing with Section 72400) to the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as introduced, Nakano. Large Passenger vessels: national marine sanctuaries.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board is the principal state agency with primary authority over water quality matters. Under the act, the board prescribes waste discharge requirements for the discharge of waste into the waters of the state.

Existing law, which by its own terms will be repealed on July 1, 2003, requires an owner or operator of a large passenger vessel operated in the marine waters of the state to submit a report to the State Water Resources Control Board of the release of graywater or sewage that occurred during a specified time in the marine waters of the state.

Federal law prohibits a state from prohibiting vessels from discharging sewage, graywater, or other specified waste, unless the state applies to, and receives approval from, the United States Environmental Protection Agency. Federal law establishes a system of national marine sanctuaries.

This bill would declare that it is in the public interest to prohibit large passenger vessels from releasing waste into national marine sanctuaries in the marine waters of the state.

The bill would require the operator of a large passenger vessel, as defined, to submit reports to the State Water Resources Control board concerning the release of waste, as defined, into national marine sanctuaries in the waters of the state, quarterly, and to immediately notify the Department of Fish and Game and the appropriate California regional water quality control board of those releases. The bill would require the operator of the vessel to sign the reports under penalty of perjury, thereby imposing a state-mandated local program.

The bill would direct the State Water Resources Control Board to apply to the Administrator of the United States Environmental Protection Agency to authorize the state to prohibit the release of both sewage and other waste by large passenger vessels in national marine sanctuaries in the marine waters of the state. The bill would prohibit those releases if the administrator approves the applications, and would subject a person who violates the prohibitions to a civil penalty, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Division 38 (commencing with Section 72400)  
2 is added to the Public Resources Code, to read:

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4 DIVISION 38. LARGE PASSENGER VESSELS  
5 OPERATING IN NATIONAL MARINE SANCTUARIES

6

7 72400. The Legislature finds and declares all of the  
8 following:

9 (a) Large passenger vessels produce considerable amounts of  
10 waste, including graywater, sewage, and other forms of solid and  
11 liquid waste.

12 (b) California is home to four of the 13 National Marine  
13 Sanctuaries. These areas support some of the world's most diverse



1 marine ecosystems and are home to numerous mammals, seabirds,  
2 fish, invertebrates, and plants.

3 (c) The release of waste from large passenger vessels results in  
4 substantial damage to these valuable resources.

5 (d) In order to protect public health and the environment, it is  
6 in the public interest to prohibit large passenger vessels from  
7 releasing waste into marine sanctuaries.

8 72402. For purposes of this division, the following definitions  
9 apply:

10 (a) “Board” means the State Water Resources Control Board.

11 (b) “Graywater” means drainage from dishwasher, shower,  
12 laundry, bath, and wash basin drains, but does not include drainage  
13 from toilets, urinals, hospitals, and cargo spaces.

14 (c) “Hazardous waste” has the meaning set forth in Section  
15 25117 of the Health and Safety Code.

16 (d) “Large passenger vessel” or “vessel” means a vessel of  
17 300 gross registered tons or greater that is engaged in the carrying  
18 of passengers for hire, excluding all of the following vessels:

19 (1) Vessels without berths or overnight accommodations for  
20 passengers.

21 (2) Noncommercial vessels, warships, vessels operated by  
22 nonprofit entities as determined by the Internal Revenue Service,  
23 and vessels operated by the state, the United States, or a foreign  
24 government.

25 (e) “Marine waters of the state” means “coastal waters” as  
26 defined in Section 13181 of the Water Code.

27 (f) “Marine sanctuary” means the Channel Islands National  
28 Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf  
29 of the Farallones National Marine Sanctuary, and Monterey Bay  
30 National Marine Sanctuary.

31 (g) “Medical waste” means medical waste subject to  
32 regulation pursuant to Part 14 (commencing with Section 117600)  
33 of Division 104 of the Health and Safety Code.

34 (h) “Oil” has the meaning set forth in Section 8750.

35 (i) “Operator” has the meaning set forth in Section 651 of the  
36 Harbors and Navigation Code.

37 (j) “Release” means discharging or disposing of wastes into  
38 the environment.

39 (k) “Sewage” has the meaning set forth in Section 775.5 of the  
40 Harbors and Navigation Code, and also includes material that has

1 been collected or treated through a marine sanitation device as that  
2 term is used in paragraph (5) of subsection (a) of Section 1322 of  
3 Title 33 of the United States Code.

4 (l) “Solid waste” has the meaning set forth in Section 40191.

5 (m) “Waste” means graywater, sewage, solid waste other than  
6 hazardous waste, including incinerator residue and medical waste,  
7 hazardous waste, or oily waste.

8 72404. (a) If a large passenger vessel releases waste in a  
9 marine sanctuary in the marine waters of the state, the operator  
10 shall immediately notify the Department of Fish and Game and the  
11 appropriate California regional water quality control board of the  
12 release.

13 (b) (1) The operator of a large passenger vessel shall maintain  
14 reports of each release of waste within a marine sanctuary in the  
15 marine waters of the state for three years, including a description  
16 of each of the following:

17 (A) Type of waste was released.

18 (B) Quantity of waste released.

19 (C) When the waste was released.

20 (D) Where the waste was released.

21 (E) Any attempt to mitigate the impacts of the release.

22 (2) The operator shall sign the reports under penalty of perjury.

23 (3) The operator shall submit the reports to the board quarterly.

24 72408. (a) The Legislature finds and declares that the  
25 protection and enhancement of the quality of marine sanctuaries  
26 in the marine waters of the state requires that the release of  
27 untreated and treated sewage from large passenger vessels into  
28 marine sanctuaries in the marine waters of the state should be  
29 prohibited.

30 (b) The board shall apply to the Administrator of the United  
31 States Environmental Protection Agency, pursuant to subsection  
32 (f) of Section 1322 of Title 33 of the United States Code and  
33 Section 140.4 of Title 40 of the Code of Federal Regulations, to  
34 authorize the state to prohibit the release of untreated and treated  
35 sewage from large passenger vessels into marine sanctuaries in the  
36 marine waters of the state.

37 (c) The board shall conduct the research necessary to make this  
38 application.

39 72409. If the Administrator of the United States  
40 Environmental Protection Agency approves an application made

1 pursuant to subdivision (b) of Section 72408, an operator of a large  
2 passenger vessel may not release, or permit anyone to release  
3 sewage, untreated or treated, from the vessel into marine  
4 sanctuaries in the marine waters of the state.

5 72410. (a) The Legislature finds and declares that the  
6 protection and enhancement of the quality of marine sanctuaries  
7 in the marine waters of the state requires that the release of waste,  
8 excluding sewage, from large passenger vessels into marine  
9 sanctuaries in the marine waters of the state should be prohibited.

10 (b) The board shall apply to the Administrator of the United  
11 States Environmental Protection Agency, pursuant to paragraph  
12 (7) of subsection (n) of Section 1322 of Title 33 of the United  
13 States Code and Section 1700.9 of Title 40 of the Code of Federal  
14 Regulations, to authorize the state to prohibit the release of waste,  
15 excluding sewage, into marine sanctuaries in the marine waters of  
16 the state.

17 (c) The board shall conduct the research necessary to make this  
18 application.

19 72411. If the Administrator of the United States  
20 Environmental Protection Agency approves an application made  
21 pursuant to subdivision (b) of Section 72410, an operator of a large  
22 passenger vessel may not release, or permit anyone to release  
23 waste, excluding sewage, from the vessel into marine sanctuaries  
24 in the marine waters of the state.

25 72412. (a) A person who violates Section 72409 or 72411,  
26 shall be subject to a civil penalty of not more than twenty-five  
27 thousand dollars (\$25,000) for each violation.

28 (b) The civil penalty imposed for each separate violation  
29 pursuant to this section is separate, and in addition to, any other  
30 civil penalty imposed for a separate violation pursuant to this  
31 section or any other provision of law.

32 (c) In determining the amount of a civil penalty imposed  
33 pursuant to this section, the court shall take into consideration all  
34 relevant circumstances, including, but not limited to, the nature,  
35 circumstance, extent, and gravity of the violation. In making this  
36 determination, the court shall consider the degree of toxicity and  
37 volume of the discharge, the extent of harm caused by the  
38 violation, whether the effects of the violation may be reversed or  
39 mitigated, and with respect to the defendant, the ability to pay, the  
40 effect of a civil penalty on the ability to continue in business, all

1 voluntary cleanup efforts undertaken, the prior history of  
2 violations, the gravity of the behavior, the economic benefit, if any,  
3 resulting from the violation, and all other matters the court  
4 determines justice may require.

5 (d) A civil action brought under this section shall be brought by  
6 the Attorney General upon complaint by the Department of Fish  
7 and Game or the appropriate California regional water quality  
8 control board, or by the district attorney or city attorney in the  
9 name of the people of the State of California. An action relating  
10 to the same violation may be joined or consolidated.

11 SEC. 2. No reimbursement is required by this act pursuant to  
12 Section 6 of Article XIII B of the California Constitution because  
13 the only costs that may be incurred by a local agency or school  
14 district will be incurred because this act creates a new crime or  
15 infraction, eliminates a crime or infraction, or changes the penalty  
16 for a crime or infraction, within the meaning of Section 17556 of  
17 the Government Code, or changes the definition of a crime within  
18 the meaning of Section 6 of Article XIII B of the California  
19 Constitution.

